

FILED
U.S. DISTRICT COURT
BRUNSWICK DIV.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

2010 NOV 19 AM 10:06
CLERK R. Aker
SO. DIST. OF GA.

FRANKLIN L. WILLIAMS,

Petitioner,

v.

CIVIL ACTION NO.: CV510-103

REBECA TAMEZ, Warden,

Respondent.

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner, an inmate currently incarcerated at the Federal Correctional Institution in Fort Worth, Texas, filed a petition for writ of *habeas corpus*, pursuant to 28 U.S.C. § 2241. Petitioner seeks to attack a sentence imposed in this District. Petitioner has previously filed a motion, pursuant to 28 U.S.C. § 2255, in this Court, and that motion has been denied. The Court can not re-characterize this petition as a motion brought pursuant to 28 U.S.C. § 2255 as Petitioner has not been granted leave to file a second or successive § 2255 motion by the Eleventh Circuit Court of Appeals. The proper venue for this petition lies in the District in which Petitioner is incarcerated. 28 U.S.C. § 2241(a) (district courts are limited to granting habeas relief "within their respective jurisdictions"); Westine v. Scott, 356 F. App'x 254, 255 (11th Cir. 2009) (citing Padilla, 542 U.S. at 447, for the conclusion that § 2241 petitions are required to be filed in the judicial district of incarceration).

Therefore, it is my recommendation that the captioned action be **TRANSFERRED** to the United States District Court for the Northern District of Texas for further consideration.

SO REPORTED and RECOMMENDED, this 19th day of November, 2010.



JAMES E. GRAHAM
UNITED STATES MAGISTRATE JUDGE